U.S. Department of Justice

United States Attorney
Southern District of New York

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New York, New York 10007

Docket + File

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BY FAX AND ELECTRONIC MAIL

The Honorable Paul G. Gardephe
United States District Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

Re: United States v. Gilberto Valle, 12 Cr. 847 (PGG)

Dear Judge Gardephe:

The Government respectfully submits this letter in response to the defendant's letter, dated January 7, 2013, in which the defendant requests a conference to address certain "issues" including the defendant's pretrial motions, and "outstanding discovery." Though the Government does not believe that a conference is necessary, the Government will be available at the Court's convenience to address any of the Court's questions on the motions or discovery.

First, for the reasons set forth in the Government's response – filed on January 4, 2013 – to the defendants pretrial motions for (1) a bill of particulars; (2) early disclosure of *Giglio* and 18 U.S.C. § 3500 material; (3) an order for the Government to "correct" the record on bail; and (4) an order of temporary release, the defendant is not entitled to the relief he seeks, and the Court should deny the defendant's motions in their entirety. The Government respectfully refers the Court to its January 4, 2013 response, and submits that the defendant's pretrial motions can be decided – in the Government's favor – on the parties' written submissions.

Second, the Government has complied with its obligations under Rule 16, and defendant's request for an order to "compel" the production of "outstanding" discovery should be denied. As explained more fully in the Government's response to the defendant's motion for a bill of particulars, the Government has produced large amounts of discovery on 14 separate occasions, and discovery in this matter has been completely "open file." As to the defendant's request for discovery related to Count 2 of the Indictment – the defendant's unauthorized access to a federal database – on November 29, 2012, the Government produced *all* relevant documents in its possession, and has thereby satisfied its obligations under Rule 16. To the extent the Government obtains additional documentation in the days leading up to trial, the Government will immediately produce that documentation.

As to the defendant's request for additional cell site data, the Government produced to the defendant, on December 10, 2012, all of the data provided to the FBI by the phone company. By email dated January 6, 2013, to address any concerns about the production, the Government told the defense that the FBI's cell site expert was willing – and indeed happy – to speak with the defendant's cell site expert. The Government has yet to receive a response to its offer. Finally, though the defendant's January 7, 2013 letter suggests that the Government failed to produce the affirmation in support of its application for GPS and cell site data on the defendant's phone, that affirmation was contained in the Government's initial production.

Respectfully submitted,

PREET BHARARA
United States Attorney

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